IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**And**

**THE HON'BLE MR JUSTICE K.C. BHANU**

**W.P. No.14249 of 2004**

Between:

R.Krishnaiah S/o. Adivappa
President, Andhra Pradesh Backward

Classes Welfare Association
R/o.43/SRT, Vidya Nagar, Hyderabad.

**..... PETITIONER**

AND

The State of Andhra Pradesh

Rep by its Principal Secretary,
Backward Classes Welfare Department,

Secretariat, Saifabad, Hyderabad.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus directing the Government of Andhra Pradesh the respondent herein to forthwith appoint and constitute Andhra Pradesh State Backward Classes Commission as mandated by the Supreme Court of India in Indra Sawhney case as reported in 1992 Suppl. (3) SCC 217 and as per the requirements of law by virtue of A.P. Commission of *(Sic. for)* Backward Classes Act 1993 with particular reference to Sections 9 and 11.

**Counsel for the Petitioner: MR.K.R.PRABHAKAR**

**Counsel for the Respondent: The Advocate General**

**The Court made the following :**

**ORDER:**(Per Hon'ble Sri Justice B. Sudershan Reddy)

Larger Bench of this Court while disposing of W.P. No.12239 of 2004 and batch issued the following directions to the Government of Andhra Pradesh.

> "1) The Government of Andhra Pradesh shall forthwith initiate the process of reconstituting the Andhra Pradesh Commission for Backward Classes and complete the same within a period of three months. That immediately upon such reconstitution, the Government shall initiate the process of consultation and seek the opinion of the Commission for inclusion of the Muslim Community into the list of backward classes.
>
> 2) The Commission shall examine the requisition/request of the Government and shall decide the same by duly giving its opinion within a period of six months from the date of such requisition/request being made by the State Government. It shall be open to the State Government to forward the entire material in its possession, including the material collected by the Commissionerate of Minorities Welfare for the perusal and consideration of the Backward Classes Commission.
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> 3 ) The identification of any caste, social group or community involves exclusion of creamy layer. The State of Andhra Pradesh though a party to the decision rendered by the Supreme Court in **Indra Sawhney's case** (1 supra), so far did not lay down any criteria for identification of creamy layer. In the circumstances, it would be just and necessary to direct the State Government to lay down the criteria for identification of creamy layer so that it could be applied while considering the case of the Muslim Community for identification as backward class. That an appropriate criteria

shall be evolved by the Government in terms of the directions of the Supreme Court in **Indra Sawhney's case** (1 supra). The very process of identification of backward classes involves identification of creamy layer amongst them. The criteria in this regard shall be laid down by the State Government within a period of three months or in the alternative to follow the criteria laid down by the Government of India in its Memorandum dated 8.9.1993 which has received its affirmation in **Ashok Kumar Thakur vs. State of Bihar** (69 supra) and **Indra Sawhney's case-II** (67 supra), in order to facilitate the expeditious disposal of the claim of the Muslim Community for their identification as a backward class.

In such view of the matter, no further cause as such survives requiring any further adjudication of this writ petition except to reiterate that the Government of Andhra Pradesh is bound to reconstitute the A.P. Commission for Backward Classes within a period of three months in terms of the directions referred to hereinabove.

The Writ Petition is accordingly disposed of without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:04-10-2004.

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K.C. BHANU, J

**PV**

To

1) The Principal Secretary

State of Andhra Pradesh,
Backward Classes Welfare Department,

Secretariat, Saifabad, Hyderabad.

2) Two C.Cs. to The Advocate General, High Court of A.P.,

Hyderabad (O.U.T).

3) Two C.Ds.